

medicine involved herein had any value whatever in the beneficial treatment of arthritis in any of its forms.

"It was conceded by all parties that 'Nue-Ovo' was not injurious or harmful. The verdict of the jury is the equivalent of a finding:

"1. That the labeling of 'Nue-Ovo' was false and misleading.

"2. That the substance 'Nue-Ovo' was useless and valueless as a remedy in the treatment of arthritis.

"In passing upon the matter now before the court, therefore, it is not a question of what the court may think concerning the facts, but the facts that were found by the jury's verdict must be accepted, and since the jury has found that there was a misbranding by reason of false and misleading labeling, and also found that the article in question has no therapeutic value in the treatment of arthritis, it would be an abuse of discretion on the part of the court to direct its sale, and thus permit it to again become an article of commerce.

"The only purpose of placing 'Nue-Ovo' on the market was as a beneficial treatment for arthritis. The findings of the jury to the effect that it was not such treatment make it inconsistent to direct its sale and movement back into the channels of commerce and trade.

"I, therefore, overrule the objections interposed by the intervenor, Research Laboratories, Inc., and upon the re-submission of the judgment and decree of forfeiture and condemnation, the same will be signed."

On August 3, 1943, judgment of condemnation was entered ordering that the article be destroyed; and on October 1, 1943, the motion for a new trial, which had been filed by the intervenor was denied.

1381. Misbranding of Azmarin Tablets. U. S. v. 140 Packages of Azmarin Tablets. Default decree of condemnation and destruction. (F. D. C. No. 12322. Sample No. 60334-F.)

On May 10, 1944, the United States attorney for the Northern District of California filed a libel against 140 packages of Azmarin Tablets at San Francisco, Calif., alleging that the article had been shipped on or about April 5, 1944, by the Azmarin Co., from Miami, Fla.

Examination showed that the article consisted essentially of aspirin, 4.4 grains per tablet, with small proportions of sulfur, potassium bitartrate, and plant material.

The article was alleged to be misbranded because of false and misleading statements on the box label and in the accompanying leaflets entitled "Azmarin Tablets and Method of Treatment in Colds & Coughs," and "What Every Sufferer From Colds, Catarrh, Hay Fever, Sinus, Bronchitis and Asthma Should Know," regarding its efficacy in the prevention or treatment of colds, coughs, excess mucus conditions, catarrh, hay fever, sinus trouble, bronchitis, asthma, influenza, bad conditions of the blood, spasm, acid conditions, irritated or inflamed mucous membrane, nervousness, difficult breathing, and choking and smothering spells. It was alleged to be misbranded further in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each active ingredient, since aspirin had been designated on the label as acid acetylsalicylic.

On September 14, 1944, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1382. Misbranding of DPS Formulae 80, 81, and 200. U. S. v. 11 Bottles of DPS Formula 80, 7 Bottles of DPS Formula 81, 14 Bottles of DPS Formula 200, and a quantity of printed matter. Default decree of condemnation and destruction. (F. D. C. No. 12354. Sample Nos. 54123-F, 54177-F, 54178-F.)

On or about May 19, 1944, the United States attorney for the District of Arizona filed a libel against 11 4-ounce bottles of Formula 80, 7 100-tablet bottles of Formula 81, 14 90-tablet bottles of Formula 200, and a quantity of printed matter at Phoenix, Ariz., alleging that the articles and the printed matter had been shipped on or about February 29 and March 15, 1944, by the Dartell Laboratories, Los Angeles, Calif. The printed matter consisted of 12 index cards entitled "DPS Series 80," 12 folders entitled "DPS Series 80 * * * Improved Method For The Use of Chlorophyll In The Treatment of Disease," 25 circulars entitled "Amino Acid Formula Victory Over Achlorhydria And Sequelae," and a booklet entitled "DPS Dartell Formulae."

Examination disclosed that the Formula 80 consisted of an aqueous solution of sodium chloride and a compound of chlorophyll; that the Formula 81 consisted essentially of a soluble chlorophyll derivative incorporated in tablet